



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUL 08 2014

Ms. Patricia Gardner, Director
Division of Water Monitoring and Standards
New Jersey Department of Environmental Protection
401 East State Street, Floor 2 West
P.O. Box 049
Trenton, New Jersey 08625

Dear Ms. Gardner:

The U.S. Environmental Protection Agency (EPA) has completed its review of the uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay, Water Quality Management Zones 2 through 6, for the protection of human health from carcinogenic effects. This criterion was established by the Delaware River Basin Commission (DRBC) and adopted by the New Jersey Department of Environmental Protection in accordance with provisions of the New Jersey Surface Water Quality Standards (NJSWQS) at N.J.A.C. 7:9B-1.5(b)(1) and N.J.A.C. 7:9B-1.14(h)(1), and the New Jersey Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

DRBC provided notice that it adopted "Amendments to the Commission's *Water Quality Regulations, Water Code and Comprehensive Plan* to revise the Human Health Water Quality Criteria for PCBs in Zones 2 through 6 of the Delaware Estuary and Bay" as a final rule. 79 F.R. 26613 (May 9, 2014); also see 46 N.J.R. 822(a) (May 5, 2014). The revised human health criterion for PCBs for the Delaware Estuary and Bay was adopted by NJDEP pursuant to N.J.A.C. 7:9B-1.5(b)(1) and N.J.A.C. 7:9B-1.14(h)(1), which set forth the water quality criteria for waters under the jurisdiction of the DRBC. Specifically, N.J.A.C. 7:9B-1.14(h)(1)(i) provides that for the Mainstream Delaware River and Delaware Bay, parameters within the DRBC Water Quality Regulations are the applicable criteria. N.J.A.C. 7:9B-1.14(h)(2)(1) provides that for tributaries to the Mainstream Delaware River and Delaware Bay, parameters within the DRBC Water Quality Regulations or those contained in N.J.A.C. 7:9B-1.14(c) apply, whichever is more stringent.

NJDEP has provided a letter, dated May 14, 2014 from New Jersey Deputy Attorney General Kristen D. Heinzerling, which certified that the PCB criterion had been adopted in accordance with New Jersey law. In taking this action, EPA considered the following documents submitted in connection with the revised human health criteria for PCBs in Zones 2 through 6 of the Delaware Estuary and Bay:

1. the letter from the New Jersey Deputy Attorney General Kristen D. Heinzerling certifying that the PCB criterion had been adopted in accordance with New Jersey law, duly adopted pursuant to New Jersey law (dated May 9, 2014);
2. the applicable notice from the Federal Register (dated May 9, 2014);
3. the applicable notice from the New Jersey Register (dated May 5, 2014);

4. "Response-To-Comment Document: Proposed Amendments to the Water Quality Regulations, Water Code, and Comprehensive Plan to Revise the Human Health Water Quality Criteria for Protection from Carcinogenic Effects for PCBs in Zones 2 - 6 of the Delaware Estuary and Bay and Draft Implementation Strategy for Polychlorinated Biphenyls for Zones 2 - 6 of the Delaware River Estuary" (December 2013); and,
5. the final report entitled, "Basis and Background Document Revised Human Health Water Quality Criteria for Total PCBs for the Protection of Human Health from Carcinogenic Effects" (July 2013).

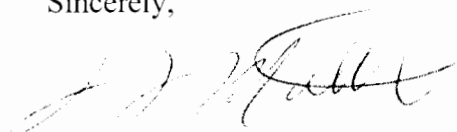
Under Section 303(c) of the Clean Water Act (CWA), 33 U.S.C. Section 1313(c), states are required to submit any new or revised standards to EPA for review. Federal regulations at 40 C.F.R. Sections 131.20-131.22 implement these requirements. As part of the review process on the PCB criterion DRBC held a public hearing on September 10, 2013 to receive public input and comment on the proposed watershed criteria. Based on our review, DRBC's procedures are consistent with, and satisfy the procedural requirements of 40 C.F.R. Section 131.20. In addition, the New Jersey Deputy Attorney General Kristen D. Heinzerling certified that as a result of the notice provided by DRBC, the revised human health criteria for PCBs in Zones 2 through 6 of the Delaware Estuary and Bay may be implemented by NJDEP as the water quality criterion in waters under the jurisdiction of DRBC per N.J.A.C. 7:9B-1.5(b)(1) and N.J.A.C. 7:9B-1.14(h)(1), as applicable.

By this letter, I am pleased to approve the revised water quality criterion of 16 picograms per liter for PCBs in Zones 2 through 6 of the Delaware Estuary and Bay, for the protection of human health from carcinogenic effects, as it applies to the waters of New Jersey, pursuant to Section 303(c) of the CWA.

In summary, the revised human health PCB water quality criterion in Zones 2 through 6 of the Delaware Estuary and Bay is the product of the most current available data and methodology, including site-specific data on fish consumption, site-specific bioaccumulation factors, and the current EPA methodology for the development of human health criteria for toxic pollutants (*see* EPA-822-B-00-004, October 2000). The detailed information regarding all aspects of the derivation of the uniform human health PCB water quality criterion for the Delaware Estuary and Bay can be found in the final report entitled, "Basis and Background Document Revised Human Health Water Quality Criteria for Total PCBs for the Protection of Human Health from Carcinogenic Effects" (July 2013).

EPA Region II looks forward to continuing to work with NJDEP to further improve the NJSWQS. If you have any questions, please call me at (212) 637-3724 or have your staff contact Ms. Kate Anderson, Chief, Clean Water Regulatory Branch at (212) 637-3754.

Sincerely,



Joan Leary Matthews, Director
Clean Water Division

cc: Barbara Hirst, Chief, Bureau of Environmental Analysis, Restoration and Standards, NJDEP